

Message Text

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ACTION EB-07

INFO OCT-01 ISO-00 AGR-05 CEA-01 CIAE-00 COME-00 DODE-00

FRB-03 H-02 INR-07 INT-05 L-03 LAB-04 NSAE-00 NSC-05

PA-01 AID-05 CIEP-01 SS-15 STR-04 ITC-01 TRSE-00

USIA-06 PRS-01 SP-02 FEAE-00 OMB-01 AF-06 ARA-06

EA-07 EUR-12 NEA-10 IO-11 /132 W

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P R 171200Z MAR 76

FM USMISSION GENEVA

TO SECSTATE WASHDC PRIORITY 8772

INFO AMEMBASSY ISLAMABAD

AMEMBASSY KINGSTON

AMEMBASSY LONDON

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AMEMBASSY NEW DELHI

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PASS STR FOR MIKE SMITH

EO 11652: N/A

TAGS: GATT, ETRD

SUBJECT: TEXTILES: TSB THIRTY-FOURTH SESSION MAR 2-3

REF: (A) GENEVA 1076, (B) GENEVA 0779, (C) GENEVA 0796

1. SUMMARY: THIRTY-FOURTH SESSION TSB WHICH CONVENED
MARCH 2: A) CONSIDERED EC-PAKISTAN ART 4 BILATERAL AGREEMENT
AND APPROVED TRANSMITTAL TO TC; B) UNDERTOOK PRELIMINARY DISCUSSION
OF EC'S NOTIFICATION OF ART 3:6 UNILATERAL RESTRICTIONS
ON UK IMPORTS SPANISH YARN; C) UNDERTOOK PRELIMINARY
EXAMINATION JAMAICA'S ART 2:1 AND 2:4 NOTIFICATION; D) HELD
EXTENSIVE DISCUSSION ON INTERPRETATION MFA ART 2; E) AND,
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DEFERRED AGAIN DISCUSSION OF EC-INDIA BILATERAL AND EC'S

PHASE-OUT PROGRAM FOR INDIA. END SUMMARY.

2. CONSIDERATION OF EC-PAK ART 4 BILATERAL WAS CARRY-OVER FROM PREVIOUS SESSION (PARAS 4-7 REF A). BETTER PART OF FIRST DAY WAS SPENT IN REHASH OF PREVIOUS DEBATE ON QUESTION EC'S RIGHT TO "REALLOCATE" QUOTAS AMONG MEMBER STATES. FORTUNATELY, DISCUSSION WAS BOTH TEMPERATE AND ORDERLY AND, WITH SEVERAL LENGTHY "COFFEE BREAKS" FOR GOOD OFFICES EXERCISES BY CHAIRMAN, US AND NORDIC REPS, AGREEMENT WAS REACHED BETWEEN EC AND DEVELOPING COUNTRY REPS ON TEXT TO GO IN REPORT OF SESSION. THUS AGREEMENT PERMITTED CONSENSUS ON CIRCULATION BILATERAL TO TC. REPORT OF SESSION WILL CONTAIN NOTE TO EFFECT "IT UNDERSTANDING OF TSB THAT IF AT ANY TIME EITHER PARTY PROPOSES MODIFICATION OF AGREEMENT, INCLUDING ITS ANNEXES, SUCH PROPOSAL WOULD BE FOLLOWED BY CONSULTATIONS BETWEEN PARTIES-- THAT ANY MODIFICATION WOULD BE NOTIFIED TO TSB IN ACCORDANCE PROVISIONS ART 4:4-- THAT TSB SHALL CONSIDER WHETHER MODIFIED AGREEMENT IS STILL CONSONANT WITH ARRANGEMENT."

3. ON JAN 7 EC SENT NOTIFICATIONS TSB UNDER REF MFA ART 3:6 OF UK'S DEC 75 RESTRICTIONS ON IMPORTS OF SPANISH YARN. NOTIFICATION HAD BEEN FIRST PLACED ON AGENDA THIRTY-SECOND SESSION BUT NOT ADDRESSED DUE TIME SPENT ON EC-PAK PHASE-OUT DISPUTE. WAS CARRIED OVER TO THIRTY-THIRD SESSION BUT AGAIN NOT DISCUSSED DUE CHAOTIC SITUATION PREVAILING THAT SESSION (REF A). CHAIRMAN IN BRINGING UP ITEM THIS SESSION INFORMED BODY THAT FORMAL PROTEST EC'S ART 3:6 ACTION HAD BEEN MADE BY SPAIN (SPANISH LETTER WAS CIRCULATED) AND MATTER WOULD HAVE TO BE TREATED AS A DISPUTE AND THAT SPAIN HAD INDICATED DESIRE SEND DEL FROM MADRID TO APPERA BEFORE TSB. EC REP STATED THAT IF THIS THE CASE, EC WOULD ALSO WISH HAVE BRUSSELS REPS PRESENT AND PROPOSED THAT HEARING BE POSTPONED TO NEXT SESSION; SAID PROPOSAL BEING ACCEPTED (SEE GENEVA 1990 FOR BACKGROUND THIS ISSUE). IN CORRIDOR DISCUSSIONS AT EARLIER SESSIONS LIMITED OFFICIAL USE

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IT HAD EMERGED THAT ALL REPS (EXCEPT EC REP) HAD CONCLUDED THAT EC'S ACTION WAS NOT CONSONANT WITH PROVISIONS OF ART 3:6 BECAUSE: A) EC HAD NEVER AFFORDED SPAIN OPPORTUNITY CONSULT; AND, B) ACTION WAS EFFECTIVE FOR 6-MONTH PERIOD RATHER THAN 60-DAY PERIOD FORESEEN IN ART 3:6; THIS WITHOUT ANY REGARD TO QUESTION OF JUSTIFICATION REQUIREMENTS IN ART 3:5.

4. JAMAICAN NOTIFICATION UNDER ART 2:1 WAS CONSIDERED AND IT WAS AGREED TO CIRCULATE NOTIFICATION TO TC. TSB, HOWEVER, NOTED THAT JAMAICA'S JUSTIFICATION FOR ITS RESTRICTIONS WOULD BE FURTHER CONSIDERED AT A LATER MEETING.

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TO SECSTATE WASHDC PRIORITY 8773

INFO AMEMBASSY ISLAMAD

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5. QUESTION OF PROPER INTERPRETATION ART 2 FIRST AROSE AT TIME TSB WAS CONSIDERING PAK COMPLAINT ON EC PHASE-OUT PROGRAM. IT WILL BE RECALLED (REFS B AND C) THAT THE APPLICABILITY OF THE ONE-YEAR EXTENSION PERIOD PROVIDED IN ART 2:2(II) WAS AND IS A CENTRAL ISSUE IN THE EC-PAK DISPUTE. THE TSB IN DRAFTING ITS ORIGINAL RECOMMENDATION (REF C) TOOK THE POSITION THAT, SINCE EC'S PHASE-OUT PROGRAM INVOLVED ITEMS THAT HAD BEEN SUBJECT PRIOR BILATERAL AGREEMENTS AND HAD BEEN SO NOTIFIED TO TSB BY EC UNDER PROVISIONS ART 2:1 THE

RESTRICTIONS SHOULD HAVE BEEN DEALT WITH UNDER ART 2/3
RATHER THAN ART 2/2. AT THE TIME THIS LANGUAGE WAS
BEING DRAFTED, US REP NOTED THAT US, NORDICS,
CANADA, AUSTRIA AND EC ITSELF HAD REQUIRED AND REQUESTED
ONE-YEAR EXTENSIONS TO COMPLETE NEGOTIATIONS BRINGING
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BILATERAL AGREEMENTS NOTIFIED UNDER ART 2/1 INTO CONFORMITY
WITH ARRANGEMENT. US REP FURTHER NOTED THAT
ALL REQUESTS FOR TIME EXTENSIONS HAD BEEN MADE UNDER
PROVISIONS ART 2:2(II) AND HAD BEEN AUTHORIZED BY TSB
UNDER SAME ART 2:2 (II). US REP, WHILE AGREEING THAT
ART 2:3 CLEARLY DEALS WITH TREATMENT OF BILATERAL
AGREEMENTS NOTIFIED UNDER ART 2/1, NOTED THAT ART 2/3
MAKES NO PROVISIONS FOR A TIME EXTENSION. US REP
FURTHER NOTED THAT TSB HAD, ON THE RECORD, GRANTED SUCH
EXTENSIONS, BUT UNDER ART 2:2(II). IF TSB WAS TO NOW
TAKE OVERT POSITION THAT ALL BILATERALS NOTIFIED UNDER
ART 2/1 SHOULD HAVE BEEN TREATED UNDER PROVISIONS
ART 2:3, QUESTION OF LEGALITY OF ALL BILATERALS NEGOTIA-
TED IN PERIOD APR 1, 1975-MAR 31, 1976 COULD ARISE.
US REP PRIVATELY INFORMED COLLEAGUES THAT SUCH A SITU-
ATION COULD PRESENT SOME LEGAL DIFFICULTIES FOR US
SINCE USG AUTHORITY NEGOTIATE BILATERALS STEMMED FROM
SEC 204 WHICH REQUIRES SUCH BILATERALS TO BE NEGOTIATED
WITHIN THE PROVISIONS OF AN INTERNATIONAL AGREEMENT.
US REP ASKED THAT, IN FORMULATING TEXT OF FINDINGS IN
EC-PAK CASE, A PARAGRAPH BE INSERTED WHICH COULD RE-
FLECT FACT THAT TSB HAD DECIDED THAT EXTENSIONS OF
ONE YEAR FOR COMPLETION RENEGOTIATIONS OF BILATERALS
WERE PROPER, WERE IMPLICIT IN PROVISIONS OF ART 2:4
AND WERE ANALOGOUS TO THE PROVISIONS IN ART 2/2 (II).
EC REP ARGUED THAT INSERTION SUCH PARA IN TEXT OF
TSB'S EC-PAK DISPUTE FINDING WOULD BE OUT OF PLACE
BUT AGREED THAT SUCH PARA "BE PLACED IN MINUTES
OF NEXT TSB SESSION" UNDER REFERENCE TO A "GENERAL DIS-
CUSSION OF ART 2." US AND OTHER TSB REPS THEN AGREED
THIS PROCEDURE. SECRETARIAT THEN DRAFTED SOME LANGUAGE
WHICH WAS ACCEPTABLE TO ALL PRESENT. HOWEVER, WHEN
THIS LANGUAGE WAS PRESENTED AT THIS SESSION, EC REP
REFUSED TO ACCEPT ON GROUNDS IT APPEARED TO IMPAIR
EC'S INTERPRETATION OF ART 2/2(II) WHICH IS: THAT ART
2:2(II) PROVIDES LEGAL BASIS FOR A ONE-YEAR TIME EXTENSION
TO INITIATE PHAS-OUTS OF UNILATERAL RESTRICTIONS.
THEREFORE IT NEEDED FURTHER STUDY. THIS STATEMENT, AS
MIGHT BE EXPECTED, BROUGHT IMMEDIATE REACTION FROM ALL
DEVELOPING COUNTRY REPS WHO, SMELLING A RATE, ALSO URGED
FURTHER STUDY. EC REP PRIVATELY INFORMED US REP THAT
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BACK-DOWN ON HIS EARLIER COMMITMENT HAD BEEN FORCED BY MEYNELL WHO "BELIEVED CLARIFYING STATEMENT ASKED BY US REP WAS NOT AS NECESSARY AS US REP INSITED AND THAT MEYNELL WOULD STRAIGHTEN THIS OUT IN WASHINGTON". US REP INFORMED EC REP THAT HE WOULD AGREE ONLY TO DEFER UNTIL NEXT SESSION (MAR 9-11). FURTHER INFORMED EC REP THAT IF HE HAD NOT RECEIVED INSTRUCTION TO ACCOMMODATE US NEED BY THAT TIME, IT WAS US REP'S INTENTIO TO FORCE A FULL DISCUSSION OF ART 2, PARTICULARLY ART 2:2(II) WHICH WOULD DO A GREAT DEAL MORE THAN "APPEARING TO IMPAIR" EC'S JUSTIFICATION OF PHASE-OUT. EC REP GOT THEM MESSAGE AS HE DID AGREE ON TEXT ACCEPT-ABLE TO US REP AT MAR 9-11 SESSION (BEING REPORTED SEPTTEL).

6. IN VIEW OF FACT THAT EC AND INDIA HAVE SCHEDULED BILATERAL CONSULTATIONS ON EC-INDIA PHASE-OUT PROGRAM FOR MAR 22, AND, WITH CONCURRENCE LOCAL INDIAN REP, TSB POSTPONED DISCUSSION BOTH EC-INDIA ART 4 BILATERAL AND RELAED PHASE-OUT PROGRAM UNTIL AFTER CONSULTATIONS COMPLETED. DALE

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